IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 983 of 2003
With
FIRST APPEAL NOS.468 TO 473 OF 2004

HON'BLE MR.JUSTICE KSHITIJ R.VYAS

and

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RANCHHODBHAI VITHTHALBHAI PATEL

Versus

SPL.LAQ OFFICER

Appearance:
MR AJ PATEL for MR AB MUNSHI for Appellant
HL JANI, AGP, for the Respondent

CORAM : HON'BLE MR.JUSTICE KSHITIJ R.VYAS
and
HON'BLE MR.JUSTICE K.S.JHAVERI
Date of decision: 17/03/2004

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE K.S.JHAVERI)

1. We have heard the learned counsel for the respective parties. Appeals admitted. Mr. H.L. Jani, learned AGP, waives service of the notice of appeals for the respondents.

2. On a joint request by the learned counsel for the respective parties, these appeals are taken up for final hearing today.

3. The appellants-original claimants have challenged the direction issued by the Reference Court in para 3 of the judgement dated 4.11.1999, rendered in Land Acquisition Reference Nos.3158 to 3164 of 1993, which reads as under:

> "(3) The claimant shall not be entitled to interest on the award of additional amount payable under section 23(1)(a) of the Act and on the solatium under section 23(2) of the Act and they shall also not be entitled for solatium on the additional amount under section 23(1)(a) of the Act."

4. We have heard Mr. A.J. Patel for the appellants and Mr. HL Jani, learned AGP, for the respondents.

5. The short facts of the case are as under:

5.1 The present appellants are owners of the lands situated in village Acharasan, Taluka Kadi, District Mehsana. The said lands were acquired for the public purpose i.e. for construction of Narmada Canal. After acceptance of the proposal the Special Land Acquisition Officer initiated proceedings for acquisition of the lands. Section 4 Notification of the Act was published in the Government Gazette on 24th May 1990 and section 6 Notification was published in the Government Gazette on 24th October 1990. The said notifications were also published in the daily newspaper and were affixed on the conspicuous place of the village Acharasan where the acquired lands are situated.

5.2 The claimants were issued notice under section 9 of the Act and the Special Land Acquisition Officer awarded compensation for the acquired lands at the rate of 2.70 per square metre.

5.3 Since the amount awarded was inadequate the

claimants preferred references under section 18 of the Act before the District Court and claimed Rs.50/- per square metre as if the land is non-agricultural land.

5.4 The Reference Court, after considering the oral as well as the documentary evidence, granted additional amount of Rs.30/- per square metre over and above the compensation awarded by the Special Land Acquisition Officer. In all the Reference Court has awarded Rs.32.70 per square metre.

5.5 In the present appeals the appellants have not claimed additional compensation, but have challenged only the refusal of grant of interest on the additional amount payable under section 23(1)(a) of the Act and on the solatium under section 23(2) of the Act.

5. Mr. A.J. Patel, learned counsel for the appellants, has relied upon a decision of the Supreme Court in the case of Sunder Vs. Union of India, reported in 2001(3) GLH 446, wherein in paragraph 23 the Supreme Court has held that the compensation awarded would include not only the total sum arrived at as per sub-section (1) of Section 23, but the remaining subsections thereof as well, and that it is clear from Section 34 that the expression "awarded amount" would mean the amount of compensation worked out in accordance with the provisions contained in Section 23, including all the sub-sections thereof. Mr. A.J. Patel has also relied upon a decision of the Supreme Court in the case of N.I. Trust Vs. Vasant Rao, reported in 2003(1) GLH 140. In paragraph 53 of the said judgement the Supreme Court has allowed the claim of the claimants and held that the claimants are entitled to interest on the amount payable to them under sub-section (1-A) of Section 23 of the Land Acquisition Act and the respondents therein were directed to compute and pay the interest payable to the appellants.

6. Mr. H.L. Jani, learned AGP, has fairly conceded that in view of the above referred decisions of the Supreme Court, the claimants are entitled for the interest on the additional amount payable to the claimants and therefore paragraph 3 of the operative order of the judgement is required to be suitably modified and appropriate directions may be issued to the respondents in light of the aforesaid judgements.

7. In the premises aforesaid, the appeals are partly allowed. The direction contained in para (3) of the operative part of the impugned judgement is set aside and

the respondents are directed to pay interest on the additional amount payable under section 23(1)(a) as also on the solatium under section 23(2) of the Act. The judgement and award stands modified to the aforesaid extent. No order as to costs.

8. Decree shall be drawn accordingly.

[KSHITIJ R. VYAS, J.]

[K.S. JHAVERI, J.]

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